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06AM03883 - FRANK JOSEPH DEFELICE
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Complaint/Petition 6106

KEYED
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SACRAMENTO

10 THE PEOPLE OF THE STATE OF
11 CALIFORNIA, by and through the
12 CALIFORNIA CORPORATIONS
COMMISSIONER,

13 Plaintiff,

14 vs.

15 FRANK JOSEPH DEFELICE,

16 Defendant.
17
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Case No.: 06AM03883

**FINAL JUDGMENT OF PERMANENT
INJUNCTION AGAINST
FRANK JOSEPH DEFELICE**

19 A. Plaintiff, the People of the State of California, by and through, Wayne Strumpfer,
20 Acting California Corporations Commissioner ("Plaintiff" or "Commissioner") have filed a
21 Complaint against FRANK JOSEPH DEFELICE ("DEFELICE").

22 B. DEFELICE has stipulated to jurisdiction of this Court over him and over the
23 subject matter of this action.

24 C. DEFELICE has stipulated to receiving service of the Summons and Complaint filed
25 in this matter.

26 D. DEFELICE has read the Complaint for Permanent Injunction, the Stipulation to
27 Entry of Judgment of Permanent Injunction Between Plaintiff and Defendant, Frank Joseph
28 DeFelice (referenced hereinafter as "Stipulation"), this proposed Final Judgment of Permanent

1 Injunction Against Frank Joseph DeFelice (hereinafter "Final Judgment") and DEFELICE
2 stipulates to entry of judgment on the terms and conditions contained in the Stipulation and
3 reflected in the Final Judgment.

4 E. DEFELICE has waived entry of Findings of Fact and Conclusions of Law under
5 California Code of Civil Procedure section 632 and all rights to appeal the entry of the Final
6 Judgment.

7 F. DEFELICE has waived any claims known to him against the State of California, its
8 agents, officers, or employees based on the facts underlying the present action. DEFELICE has
9 specifically waived any rights provided by California Civil Code section 1542, which provides:
10 "A general release does not extend to claims which the Creditor does not know or suspect to exist
11 in his favor at the time of executing the release."

12 G. DEFELICE has stipulated and agreed that he entered into the Stipulation
13 voluntarily and without coercion, and has acknowledged that no promises, threats or assurances
14 have been made by Plaintiff or any officer, or agent thereof to induce him to enter into the
15 Stipulation.

16 **PURSUANT TO STIPULATION OF THE PARTIES AND GOOD CAUSE**
17 **APPEARING THEREFOR, IT IS HEREBY ADJUDGED, ORDERED AND DECREED**
18 **THAT JUDGMENT BE ENTERED AS FOLLOWS:**

19 1. The following facts are deemed and stipulated to be true:

20 a. Starting in 2003, DEFELICE conducted business as an investment adviser,
21 within the meaning of California Corporations Code section 25009, in the State of California.

22 b. DEFELICE was compensated for the investment adviser services he
23 provided.

24 c. DEFELICE has never possessed a certificate from the California
25 Corporations Commissioner ("Commissioner"), as required by California Corporations Code
26 section 25230, authorizing him to engage in the business activities of an investment adviser.

27 d. DEFELICE was not exempt from the provisions of California Corporations
28 Code section 25230.

1 e. On April 4, 2005, the Department of Corporations ("Department") issued a
2 Desist and Refrain Order ("Order") against DEFELICE for violations of California Corporations
3 Code section 25230. The order required DEFELICE to desist and refrain from charging
4 compensation for managing or providing advice concerning securities and/or securities portfolios
5 or as to the advisability of investing in, purchasing or selling securities and/or securities portfolios
6 unless and until he has been appropriately licensed.

7 f. DEFELICE, by his letter of April 18, 2005 to the Department, promised that
8 he would comply with the order and halt his unlawful activity. DEFELICE chose not to challenge
9 the Order and therefore the Order and findings of facts contained therein are final.

10 g. On September 23, 2005, DEFELICE again engaged in unlicensed
11 investment adviser activity, within the meaning of California Corporations Code section 25009, in
12 violation of the Department's order requiring DEFELICE to desist and refrain from his unlawful
13 activity.

14 h. DEFELICE has no facts to support a defense to the allegation that
15 DEFELICE conducted business as an investment adviser, for compensation, in the State of
16 California in violation of California Corporations Code section 25230.

17 i. DEFELICE has no facts to support a defense to the allegation that
18 DEFELICE engaged in unlicensed investment adviser activity, within the meaning of California
19 Corporations Code section 25009, in violation of the Department's order requiring DEFELICE to
20 desist and refrain from his unlawful activity.

21 **AS A RESULT OF THE ABOVE THE COURT ENTERS JUDGMENT AS**
22 **FOLLOWS:**

23 2. DEFELICE and his agents, employees, attorneys in fact in their capacities as such,
24 and all persons acting in concert or participating with them, shall be and are hereby permanently
25 enjoined from engaging in, committing, aiding and abetting, substantially assisting, or performing
26 directly or indirectly, by any means whatsoever, any of the following acts:

27 a. Violating California Corporations Code section 25230 by conducting
28 business as an investment adviser in the State of California, unless and until he has first applied

1 for and secured from the Commissioner a certificate authorizing him to act as an investment
2 adviser.

3 b. Violating the Desist and Refrain Order issued, pursuant to California
4 Corporations Code section 25235, on DEFELICE.

5 c. Removing, destroying, mutilating, concealing, altering, transferring or
6 otherwise disposing of, in any manner, any books, records, computer files, correspondence,
7 brochures, manuals or any other writings or documents of any kind as defined under California
8 Evidence Code section 250 relating to the transactions and course of conduct as alleged in the
9 Complaint filed in this action, that are in the possession, custody or control of Defendant for a
10 period of four years from the date of the entry of the Final Judgment.

11 3. The Court shall retain jurisdiction of this action in order to implement and enforce
12 the terms of this Stipulation and entry of the Final Judgment pursuant thereto, and to entertain any
13 suitable application or motion for additional relief or modification or any order made herein within
14 the jurisdiction of the Court.

15 IT IS SO ORDERED.

16
17 Dated: MAY 25 1997

JUDGE OF THE SUPERIOR COURT

LOREN E. McMASTER